



abused and betrayed

How Prosecutors Changed The Odds To Start Winning Some Of The Toughest Rape Cases

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Heard on All Things Considered



JOSEPH SHAPIRO

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Transcript

Editor's note: This report includes graphic and disturbing descriptions of sexual assault.

There's a trial scheduled in March at the marble courthouse in Newark, N.J., of a man charged with kidnapping and raping a young woman with an intellectual disability.

That trial is likely to be a quiet one, with little attention, nothing like the feverish national press coverage 25 years ago of the trial — in that same courthouse — in another case of sexual assault of another young woman with an intellectual disability.



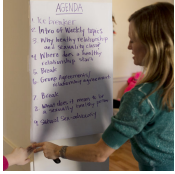
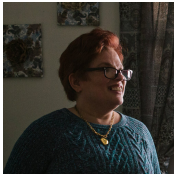
Glen Ridge sexual assault trial defendants Bryant Grober (from left), Kyle and Kevin Scherzer and Christopher Archer, who is partially hidden behind Grober, leave the Essex County Courthouse in Newark, N.J., in 1993. The Scherzers and Archer were convicted of first degree aggravated sexual assault; Grober was found guilty of a third degree count of conspiracy.

Dan Hulshizer/AP

That case, known as the Glen Ridge rape case, was the first time a sexual assault of a woman with an intellectual disability captured widespread national attention. In 1989, in Glen Ridge, N.J., an affluent suburban town of broad front yards and stone mansions, a group of popular high school athletes persuaded a young woman from the special education classes to come into a basement. They promised that if she did, she would get to go on a date with the football player she had a crush on. Then she was forced to perform oral sex and was assaulted with a baseball bat and a broomstick.

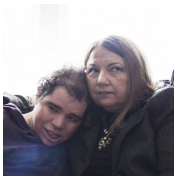
ABUSED AND BETRAYED

The Sexual Assault Epidemic No One Talks About



ABUSED AND BETRAYED

For Some With Intellectual Disabilities, Ending Abuse Starts With Sex Ed



ABUSED AND BETRAYED

'She Can't Tell Us What's Wrong'

Of the 13 young men in the basement that day, six left when the assault began. But no one stopped it. And not one reported it.

The trial started in 1992. Four of the young men were convicted in 1993 — three of aggravated sexual assault, the fourth of conspiring with the others.

A young prosecutor back then, Robert Laurino, championed the case. Today, Laurino is the chief prosecutor in Essex County. And he continues to make prosecution of sex crimes against people with intellectual disabilities a priority.

"There's probably no more satisfying victory that you can get than to be able to convict a person who is of a predatory nature, that would actually prey on the person with a disability," he says.

The Glen Ridge rape case became a national lesson in how people with intellectual disabilities — back then, the term was "mental retardation" — are victims of sexual abuse.

How to better pursue cases

The rape of someone with an intellectual disability remains one of the hardest crimes for police to investigate and one of the hardest for prosecutors to win in court. A victim with an intellectual disability may have trouble speaking, or may not have words at all. And when victims can speak, they may have trouble telling precise details, which makes them easy to confuse in a courtroom.



Robert Laurino, the chief prosecutor in Essex County, N.J., sits behind his desk at Veterans Courthouse in Newark. Laurino has been an advocate for victims of sexual violence, including those with cognitive disabilities, for more than 25 years.

Cassandra Giraldo for NPR

That makes the rape of someone with an intellectual disability one of the easiest crimes to get away with. A perpetrator is free to rape again. And that's one reason

people with intellectual disabilities are sexually assaulted at more than seven times the rate of people without disabilities. NPR obtained that number from unpublished data provided by the Justice Department.

In the years since Glen Ridge, Laurino and his prosecutors have learned — as have prosecutors around the country — how to better pursue these tricky cases. And those lessons are being applied to the trial of Khrishad Clark, the man charged with kidnapping and raping a 29-year-old woman with an intellectual disability. That's the trial set to begin in March in Newark.



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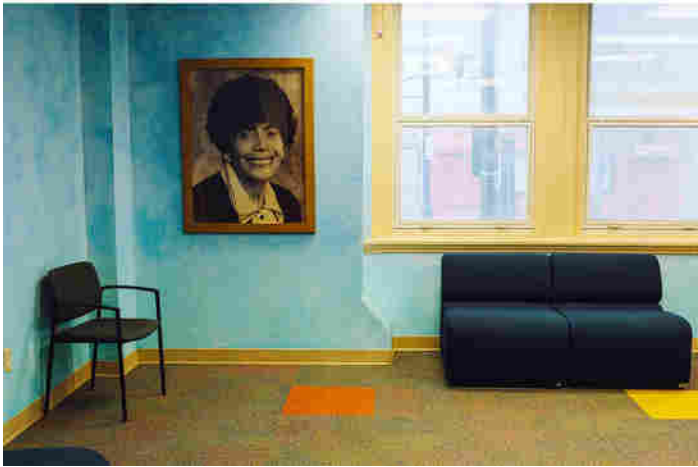
In The Wake Of #MeToo, More Victims Seek Help For Repressed Trauma

The case started in May 2016, when the woman wandered away from the house where she lived. She explained later that she had wanted to go find her father. She walked to a phone store — without any money — thinking she could buy a phone and call him. Then she disappeared.

Police searched for the woman on the streets late into the night. And one detective, who kept looking, happened to be near the woman's house when a van pulled up at 4 a.m. This tiny woman — shaking with fear, he said — got out. That's how police caught Clark, the driver of the van.

"Keep it child friendly"

After Glen Ridge, prosecutors, lawmakers and state officials in New Jersey looked for better ways to prosecute cases where people with intellectual disabilities were abused. One thing they did: They applied some of the best practices for prosecuting crimes against children.



Top: The waiting room inside Wynona's House Child Advocacy Center in Newark. The center assists children and adults with intellectual disabilities who are victims of abuse. **Left:** A photograph of Sen. Wynona Lipman, for whom the Wynona Lipman Child Advocacy Center is named. **Right:** Decorations inside Wynona's House.

Cassandra Giraldo for NPR

Fifteen years ago, the state built Wynona's House, a "child advocacy center" in Newark. That's where police took the woman that night.

Wynona's House, a two-story brick building in Newark, is designed to be a place for children who have been physically or sexually abused. It houses a team of health care professionals, including therapists, who can respond in a crisis and then offer ongoing support. Also on site: There's a nurse who can do a rape exam.

Police and prosecutors, who handle these cases, are based here, too. They're able to collaborate more effectively because they have offices next to each other. But that law enforcement side is kept out of sight on the second floor. That protects confidentiality and makes Wynona's House less scary for victims. "We don't want guns and badges in front of them," explains Kathleen Lyons-Boswick, an assistant prosecutor in the county's Special Victims Unit. "That's really important to keep it child friendly."

On the first floor, the walls are painted with colorful balloons, rainbows and birds. There are special interview rooms where child victims can tell their stories to one or two counselors. To avoid the need for the child to tell a story again or to multiple people — which can be traumatic — police investigators and others can watch from a room next door.



Capt. Steve Roberts (left) talks through a case with Assistant Prosecutor Kathleen Lyons-Boswick and Laurino inside the Special Victims Unit of Wynona's House.

Cassandra Giraldo for NPR

And although the center is designed specifically for children, it is also a place where adults with intellectual disabilities are taken when they are victims of sexual violence.

Looking for the different building blocks

On that night in May 2016, the woman was taken upstairs to a separate interview room, not one of the ones set up for children. But this one, too, was set up for forensic interviews. She sat at a small table with a detective and a police sergeant. There's a camera, discreetly in a corner of the room. An assistant prosecutor watched the interview on a computer from a room across the hall and could relay questions.

Adults with disabilities are not children. The investigators know they can't treat them the same way. But there's one thing that helps with both: Every police officer and prosecutor gets training in interview technique — in how to ask concrete questions. That makes it easier for children and people with intellectual disabilities to answer more completely.

Many people with intellectual disabilities think in concrete and literal ways. Abstract concepts, such as time, or the use of euphemisms, metaphors and analogies — and some humor — may be difficult to understand. That can lead to misunderstandings, and making things trickier: They often won't let someone know they don't understand, often because they want to please the person they're talking to, or they're embarrassed and try to hide their level of confusion.



Inside an examination room at Wynona's House. There is a team of health care professionals, including therapists, who can respond in a crisis and then offer ongoing support. There is also a nurse on site who can do a rape exam.

Cassandra Giraldo for NPR

So better questions help build the facts necessary to making a case. Many people with intellectual disabilities, for example, have difficulty putting things in proper time sequence. That matters in court.

The woman who was allegedly kidnapped and raped impressed investigators that night.

"She was able to describe what happened to her," says Lyons-Boswick, the prosecutor who is trying the case. "A sexual assault that happens in private, in secret — these things don't happen out in the open — you look for all the different building blocks that corroborate the case."

"These are individuals who tend not to come forward"

At the time of the Glen Ridge trial, prosecutors rarely took to trial sexual assault cases against people with intellectual disabilities. Even when an offender was identified, only 24 percent were charged with an offense, according to research in 1994 by Dick Sobsey of the University of Alberta — a pioneering researcher of crime and intellectual disability. And of those who were charged, only 8 percent were convicted.

There are no good numbers today for how often someone is charged in the sexual assault of a person with an intellectual disability, or how often someone is convicted. Sobsey and others say the numbers have grown sharply since 1994. Still, only a minority of these rape cases end in a conviction.



Lyons-Boswick goes through old case files.

Cassandra Giraldo for NPR

NPR's own numbers suggest that. NPR asked states for data on how often they got reports of sexual abuse of someone with an intellectual disability. Under federal requirements, states are required to follow up on suspected abuse when it is reported or observed by a provider of services, like a group home or a work program, that gets state and federal funding.

The state data show that allegations of sexual assault rarely result in prosecution. In Texas, fewer than 1 percent of allegations were confirmed. In Florida, about 5 percent were verified. In Ohio, 23 percent were substantiated between 2012 and 2015. In Pennsylvania, 34 percent of allegations were confirmed. But only 40 percent of those

were referred to law enforcement. Pennsylvania was the only state that provided referral data to NPR.

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By Talking About His Rape, This Former Astronaut Says He Aims To Help Other Survivors

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And NPR's numbers, obtained from the Justice Department's use of a household survey, show that most cases don't get reported. When asked, the people with intellectual disabilities — or a family member or someone else speaking on their behalf — explained that they didn't think police would or could help (40 percent) or they handled the assault "with another way" (37 percent).

"These are individuals who tend not to come forward," Laurino explains today. "Sometimes they don't even understand that they've been abused."

By contrast, women without intellectual disabilities gave different reasons for not reporting sexual violence to police, according to the Justice Department: 20 percent feared retaliation, 13 percent believed police would not do anything to help and 13 percent believed it was a personal matter.

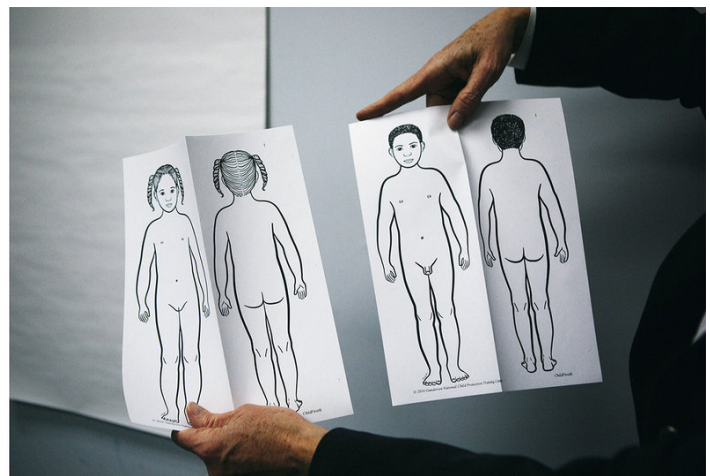
After Laurino won milestone convictions in the Glen Ridge case, he traveled around the country to conferences, where he would tell other prosecutors how to pursue these cases. "To show that these cases are, in fact, winnable," he says. "They take a lot of work. But if you invest in them, they are winnable and it's a great feeling when you can help somebody who really can't help themselves."

As law enforcement officials saw other prosecutors winning these cases — and as more

prosecutors understood that these crimes were going unprosecuted — more began to pursue sexual abuse against people with intellectual disabilities.

Putting things in context

People with intellectual disabilities and their families demanded prosecution, too. Nancy Thaler, the Pennsylvania official in charge of developmental disability programs there, says the integration of people with intellectual disabilities made a difference. "As they've become more integrated in society, people have come to know them," says Thaler, a deputy secretary of Pennsylvania's Department of Human Services. "Thirty years ago, it was impossible to find a prosecutor to prosecute. In the 1990s and the 2000s, we started to see changes."



Left: Anatomically correct dolls are kept in a chest inside the child's interview room. The dolls are used to assist children and some adults with intellectual disabilities in describing an abuse that has occurred. **Right:** Sketch papers are used by forensic interviewers when an individual is struggling to describe a sexual assault.

Cassandra Giraldo for NPR

Now, she says, prosecutors are more likely to be willing to file charges and judges are more likely to understand how to handle these cases. "Today, you might actually find a prosecutor who went to public school, in an inclusive school, with classmates that were disabled," says Thaler. "So they're familiar with people [with intellectual disabilities] and how they think and how they talk."

Laurino, for example, came to the Glen Ridge case with a lifetime of that understanding. His older brother has an intellectual disability.

But at trial in 1992 and 1993, Laurino had to explain to the court and to jurors how someone with an intellectual disability was easily manipulated. Defense attorneys tried to depict the young woman as a sexually experienced temptress who aggressively sought out sex with the young men charged with assaulting her. The judge allowed the young woman's sexual history to be noted in court. She'd had other sexual experiences. And, because her parents were worried that she was vulnerable, she'd started taking birth control pills when she was 16.

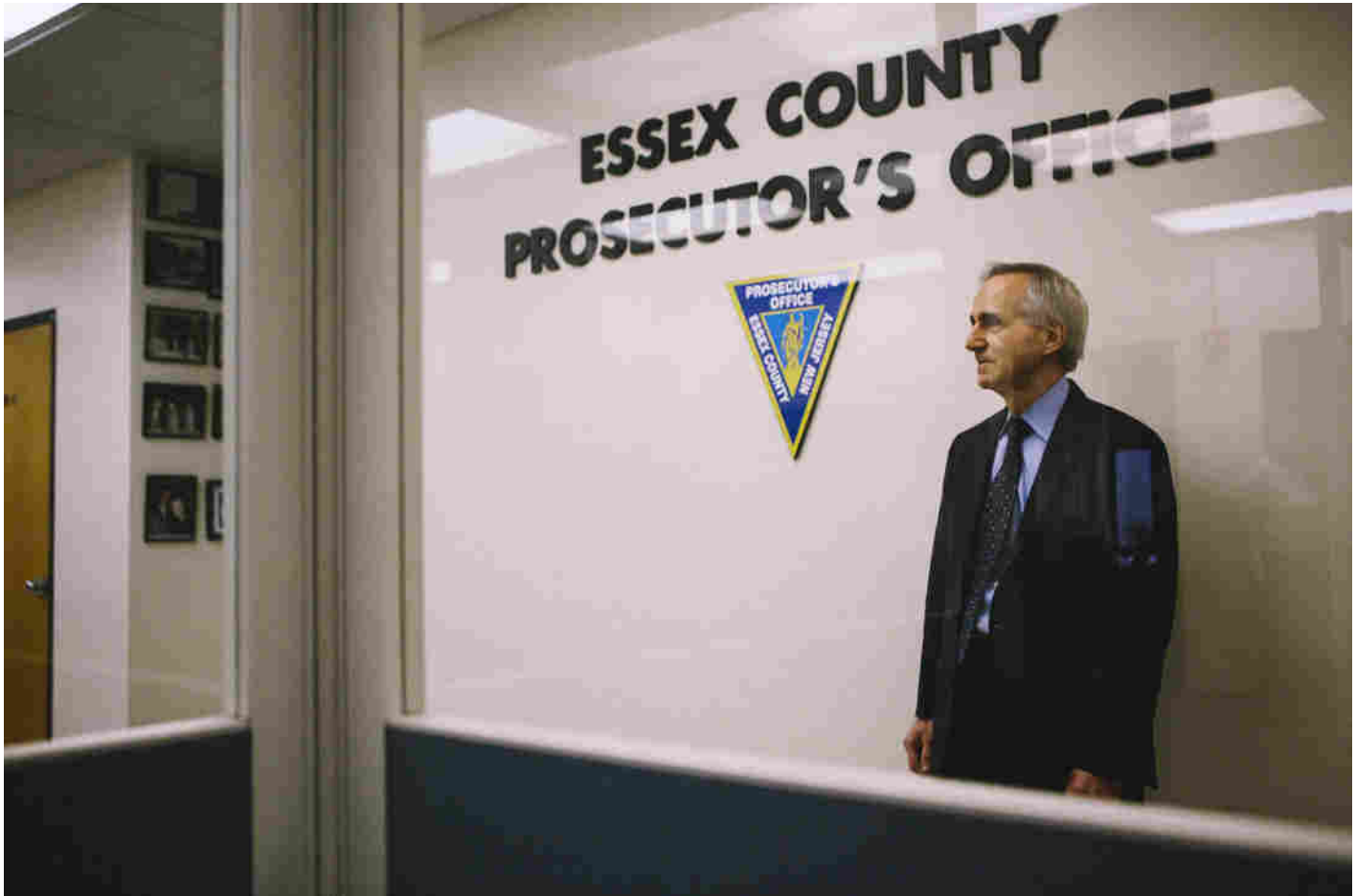


THE TWO-WAY

New Lawsuit Alleges Baylor Players Gang-Raped Women As 'Bonding Experience'

Laurino put that into context. She was first sexually assaulted when she was 12. All her life, she'd been the victim of cruel pranks by classmates trying to see what they could get her to do. It started when she was 5 and some boys persuaded her to lick dog feces. By the time she was a teen, boys were trying to talk her into sex acts.

Laurino countered the defense attorneys' depiction of her — as the sexual aggressor — by noting the limitations that came with her disability. She had no friends, but desperately wanted them. She had difficulty understanding the difference between sex and love and that she could say no to her classmates who asked for sex.



Laurino stands inside his office in Newark. He helped to establish Wynona's House, New Jersey's largest child advocacy center in Newark, and to create Essex County's sexual assault response team.

Cassandra Giraldo for NPR

"Why didn't you ask the boys to leave you alone?" Laurino asked the woman when she testified at the trial.

"I didn't want to hurt their feelings," she replied.

The Glen Ridge case divided the wealthy town. She was the young woman seen as having no future. They were the young men headed to college, expected to accomplish big things.

The National Organization for Women and other feminist groups objected to the way the young woman was depicted by the defense attorneys and by town residents. They

staged protests in Glen Ridge and outside the courthouse and sent representatives to watch the five-month trial.

There was national press coverage, a book — *Our Guys* by journalist Bernard Lefkowitz — and a made-for-TV movie from that book.

The key to conviction

Today, prosecutors have more weapons to bring these cases: There's better protection of the rights of rape victims in court. There are more laws to protect people with disabilities. And, for evidence, there's DNA testing.

At the time of Glen Ridge, almost 25 years ago, DNA wasn't so commonly used. Now it is one of the best tools in these cases.



Lyons-Boswick goes to Veterans Courthouse in Newark to have a judge sign off on a warrant she needs to prosecute a sexual assault case.

Cassandra Giraldo for NPR

There was an example last year in Boynton Beach, Fla. Prosecutors reopened a cold case — from 13 years earlier. Back in 2004, police suspected a man of raping a disabled woman. She got pregnant. But the woman couldn't speak. The man denied the charge, and the case died. Then, in 2016, police reopened the case and later ran a new DNA test, and that linked the suspect. Pascal Estime was arrested at the airport in July 2017 as he was about to board a plane, police said, headed to Haiti. But in November, a judge freed Estime, ruling that police had waited too long to do the DNA testing and that the statute of limitations had run out.

DNA evidence will be presented at the March trial of Khrishad Clark.

Still, the key to conviction in these cases is often the testimony of the victim.

In the current case in Essex County, the prosecutors will spend many extra hours with the woman who was the victim, just to make sure she understands the legal process and to get her comfortable in a courtroom. Recently, Lyons-Boswick, the prosecutor, took the woman to the actual courtroom, to let her see what it looks like. She showed her the prosecution's table, where the judge sits at the bench, and she had the woman sit on the witness stand, next to the jury box.

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Louisiana Gov. Issues Executive Order To Better Protect Rape Survivors

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The judge explained, things, too. She shook the woman's hand and introduced herself. The judge put on her dark robe, like she will be wearing in court.

Clark, at a preliminary hearing in June, and in a letter he sent to NPR from jail, says the evidence will show he did not commit rape.

(Another case that got national attention that the office prosecuted showed how complicated these cases can get. In 2015, Essex County prosecutors won the conviction of college professor Anna Stubblefield for sexually abusing a man with significant disabilities who did not speak words. Prosecutors, and the man's family, said the man did not have the ability to consent to sex. Stubblefield said she and the man had fallen in love and had a consensual relationship. Last year, an appeals court threw out the conviction, saying the judge erred by not allowing defense testimony that argued the man could communicate — with words — by using a controversial method called "facilitated communication.")

Some courts — but not in New Jersey — allow victims with intellectual disabilities to keep a service animal, one trained just for court testimony, that will hide from the view of jurors so dog lovers won't be biased. Other courts let victims with intellectual disabilities avoid being in a scary courtroom, and take their testimony on videotape.

It's hard work. It's extra work. And prosecutors like Laurino and Lyons-Boswick say it pays off.

Barbara Van Woerkom contributed reporting to this story.

intellectual disabilities npr investigation sexual assault rape covering sexual assault
disabilities